

**SUPREME COURT MINUTES  
WEDNESDAY, MAY 7, 2008  
SAN FRANCISCO, CALIFORNIA**

**S161550**      C053124 Third Appellate District      **PEOPLE v. BROOKS  
(TIMOTHY GEORGE)**

The time for granting or denying review in the above-entitled matter is hereby extended to June 5, 2008.

**S161569**      B190603 Second Appellate District, Div. 8      **PEOPLE v. TAYLOR  
(RONALD A.)**

The time for granting or denying review in the above-entitled matter is hereby extended to June 6, 2008.

**S161581**      C054219 Third Appellate District      **PEOPLE v. HOWARD  
(DALENA LATRAIL)**

The time for granting or denying review in the above-entitled matter is hereby extended to June 6, 2008.

**S161620**      G037362 Fourth Appellate District, Div. 3      **PEOPLE v. CHAKER  
(DARREN)**

The time for granting or denying review in the above-entitled matter is hereby extended to June 5, 2008.

**S161650**      B198739 Second Appellate District, Div. 2      **PEOPLE v. JORDAN  
(MICHAEL)**

The time for granting or denying review in the above-entitled matter is hereby extended to June 6, 2008.

**S161815**      B205219 Second Appellate District, Div. 4      **TOPALIAN (CARLO) ON H.C.**

The time for granting or denying review in the above-entitled matter is hereby extended to June 13, 2008.

**S161913** H032229 Sixth Appellate District**C. (FOREST) ON H.C.**

The time for granting or denying review in the above-entitled matter is hereby extended to June 18, 2008.

**S055501****PEOPLE v. BUTLER  
(RAYMOND OSCAR)**

Extension of time granted

Good cause appearing, and based upon Deputy Attorney General Noah P. Hill's representation that he anticipates filing the supplemental reply brief by July 3, 2008, counsel's request for an extension of time in which to file that brief is granted to July 3, 2008. After that date, no further extension is contemplated.

**S073823****PEOPLE v. BUENROSTRO  
(DORA)**

Extension of time granted

Good cause appearing, and based upon Supervising Deputy State Public Defender Nina Rivkind's representation that she anticipates filing the appellant's opening brief by July 26, 2008, counsel's request for an extension of time in which to file that brief is granted to July 14, 2008. After that date, only one further extension totaling about 14 additional days will be granted.

**S153757** H029616 Sixth Appellate District**PEOPLE v. EVANS (JAMES)**

Counsel appointment order filed

Upon request of appellant for appointment of counsel, the Sixth District Appellate Program is hereby appointed to represent appellant on the appeal now pending in this court.

**S160601** F051882 Fifth Appellate District**PEOPLE v. MCFEARSON  
(DAVID)**

Counsel appointment order filed

Upon request of appellant for appointment of counsel, Deborah L. Hawkins is hereby appointed to represent appellant on the appeal now pending in this court.

**S126357****RULE 962 SUSPENSION**

Order filed

Having been provided proof of compliance pursuant to Family Code 17520, the suspension of DAVID RONALD LEBEOUF, #99403, pursuant to our order filed on April 4, 2008, is hereby terminated. This order is final forthwith.

**S161143** C052019 Third Appellate District**PEOPLE v. MONTANEZ  
(RAMIRO)**

Order filed

The order filed on April 30, 2008, denying the petition for review is amended to reflect the Court of Appeal number above.

**S161143** C052019 Third Appellate District**PEOPLE v. MONTANEZ  
(RAMIRO)**

Order filed

The order filed on April 18, 2008, extending time to grant or deny review to and including May 23, 2008, or the date upon which review is either granted or denied, is amended to reflect the Court of Appeal number above.

**S162886****MUHAMMAD (SHAKA  
SENEGAL) v. DEPARTMENT  
OF CORRECTIONS &  
REHABILITATION  
(FERGUSON)**

Transferred to Court of Appeal, First Appellate District, for consideration in light of *Hagan v. Superior Court* (1962) 57 Cal.2d 767. In the event the Court of Appeal determines that this petition is substantially identical to a prior petition, the repetitious petition must be denied.

**S161468****SCOTT ON DISCIPLINE**

Recommended discipline imposed

It is ordered that MARK BARRY SCOTT, State Bar No. 49773, be suspended from the practice of law for two years, that execution of the suspension be stayed, and that he be placed on probation for two years subject to the conditions of probation, including six months actual suspension, recommended by the Review Department of the State Bar Court in its Opinion filed on September 5, 2007, as modified on December 17, 2007. It is also ordered that he take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) It is further ordered that he comply with rule 9.20 of the California Rules of Court, and that he perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of this order.\* Costs are awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

\*(See Bus. & Prof. Code, § 6126, subd. (c).)

**S161475****BRAU ON DISCIPLINE**

## Recommended discipline imposed

It is ordered that FRANK GEORGE BRAU, State Bar No. 117511, be suspended from the practice of law for two years and until he provides satisfactory proof to the Office of Probation that he has made specified restitution as set forth below and until he has shown proof satisfactory to the State Bar Court of his rehabilitation, fitness to practice and learning and ability in the general law pursuant to standard 1.4 (c)(ii) of the Standards for Attorney Sanctions for Professional Misconduct, that execution of the suspension be stayed, and that respondent be placed on probation for five years on condition that he be actually suspended for six months and until he makes restitution as follows:

- (1) to Miguel and Juan Lopez, jointly, in the amount of \$1,040 plus 10% interest per annum from March 13, 2000;
- (2) to Michelle Kim in the amount of \$1,200 plus 10% interest per annum from March 31, 2000;
- (3) to Noriega Chiropractic Clinic on behalf of Karine Kakoyan in the amount of \$2,358 plus 10% interest per annum from March 1, 2001;
- (4) to Noriega Chiropractic Clinic on behalf of Hmayak Kakoyan in the amount of \$2,358 plus 10% interest per annum from March 1, 2001;
- (5) to Nak Jung in the amount of \$17,500 plus 10% interest per annum from January 1, 1999;
- (6) to Permanent General Assurance Corporation in the amount of \$1,334 plus 10% interest from February 1, 2002; and
- (7) to Seong Park in the amount of \$3,399.36 plus 10% interest per annum from February 1, 2002

(or to the Client Security Fund to the extent of any payment from the fund to Miguel and Juan Lopez, Michelle Kim, Noriega Chiropractic Clinic on behalf of Karine Kakoyan, Noriega Chiropractic Clinic on behalf of Hmayak Kakoyan, Nak Jung, Permanent General Assurance Corporation or Seong Park, plus interest and costs, in accordance with Business and Professions Code section 6140.5), and has furnished satisfactory proof thereof to the State Bar's Office of Probation.

Any restitution owed to the Client Security Fund is enforceable as provided in Business and Professions Code section 6140.5, subdivision (c) and (d). Respondent is further ordered to comply with the other conditions of probation recommended by the Hearing Department of the State Bar Court in its Decision filed on January 18, 2008. If respondent is actually suspended for two years or more, he must remain actually suspended until he provides proof to the satisfaction of the State Bar Court of his rehabilitation, fitness to practice and learning and ability in the general law pursuant to standard 1.4 (c)(ii) of the Standards for Attorney Sanctions for Professional Misconduct. It is also ordered that respondent take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order or during the period of his actual suspension, whichever is longer. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) Respondent is further ordered to comply with rule 9.20 of the California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of this order.\* Costs are awarded to

the State Bar in accordance with Business and Professions Code section 6086.10 and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

\*(See Bus. & Prof. Code, § 6126, subd. (c).)

**S161478****GARTH ON DISCIPLINE**

Recommended discipline imposed

It is ordered that MOYLAN F. GARTH, State Bar No. 149639, be suspended from the practice of law for one year, that execution of the suspension be stayed, and that he be actually suspended from the practice of law for three months, as recommended by the Review Department of the State Bar Court in its opinion filed on December 3, 2007, as modified on December 14, 2007, and until the State Bar Court grants a motion to terminate his actual suspension pursuant to rule 205 of the Rules of Procedure of the State Bar of California. Respondent is also ordered to comply with the conditions of probation, if any, hereinafter imposed by the State Bar Court as a condition for terminating his actual suspension. If respondent is actually suspended for two years or more, he must remain actually suspended until he provides proof to the satisfaction of the State Bar Court of his rehabilitation, fitness to practice and learning and ability in the general law pursuant to standard 1.4(c)(ii) of the Standards for Attorney Sanctions for Professional Misconduct. It is further ordered that respondent take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order or during the period of his actual suspension, whichever is longer. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) It is further ordered that respondent comply with rule 9.20 of the California Rules of Court, and that he perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of this order.\* Costs are awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

\*(See Bus. & Prof. Code, § 6126, subd. (c).)

**S161507****MOEN ON DISCIPLINE**

Recommended discipline imposed

It is ordered that MELANIE L. MOEN, State Bar No. 170069, be suspended from the practice of law for one year, that execution of the suspension be stayed, and that she be placed on probation for two years subject to the conditions of probation recommended by the Hearing Department of the State Bar Court in its Order Approving Stipulation filed on November 30, 2007, as modified by its order filed on January 18, 2008. It is further ordered that MELANIE L. MOEN take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) Costs are awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and one-half of said costs be paid with membership fees for the years 2009 and 2010. It is further ordered that

if MELANIE L. MOEN fails to pay any installment of the disciplinary costs within the time provided herein or as may be modified by the State Bar Court pursuant to Business and Professions Code section 6086.10, subdivision (c), the remaining balance of the costs is due and payable immediately unless relief has been granted under the Rules of Procedure of the State Bar of California (Rules Proc. of State Bar, rule 286). The payment of costs is enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

**S161509****BARAN ON DISCIPLINE**

Recommended discipline imposed

It is ordered that DAVID J. BARAN, State Bar No. 105376, be suspended from the practice of law for three years and until he has complied with the requirements of standard 1.4 (c)(ii) of the Standards Attorney Sanctions for Professional Misconduct and until he has made specified restitution, that execution of the suspension be stayed, and that he be placed on probation for five years on condition that he be actually suspended for two years and until he has shown proof satisfactory to the State Bar Court of respondent's rehabilitation, fitness to practice and learning and ability in the general law pursuant to standard 1.4 (c)(ii) of the Standards for Attorney Sanctions for Professional Misconduct and until he has made restitution as follows:

- (1) Pedro Ibanez in the amount of \$1,230 plus 10% interest per annum from May 1, 2003;
  - (2) Victor Valle in the amount of \$500 plus 10% interest per annum from January 1, 2004;
  - (3) Gary Horgan in the amount of \$2,900 plus 10% interest per annum from September 1, 2003;
  - (4) James Wilson in the amount of \$1,750 plus 10% interest per annum from January 1, 2004;
- and
- (5) Olivia Nims in the amount of \$194 plus 10% interest per annum from June 1, 2004 (or to the Client Security Fund to the extent of any payment from the fund to Pedro Ibanez, Victor Valle, Gary Horgan, James Wilson and Olivia Nims, plus interest and costs, in accordance with Business and Professions Code section 6140.5), and has furnished satisfactory proof thereof to the State Bar's Office of Probation.

Any restitution owed to the Client Security Fund is enforceable as provided in Business and Professions Code section 6140.5, subdivisions (c) and (d). Respondent is further ordered to comply with the other conditions of probation recommended by the Hearing Department of the State Bar Court in its Decision filed on January 16, 2008. It is also ordered that respondent take and pass the Multistate Professional Responsibility Examination during the period of his actual suspension. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn.8.) Respondent is further ordered to comply with rule 9.20 of the California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of this order.\* Costs are awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

\*(See Bus. & Prof. Code, § 6126, subd. (c).)

**S163153****PART ON RESIGNATION**

Resignation accepted with disciplinary proceeding pending

The voluntary resignation of MARVIN LAWRENCE PART, State Bar No. 29302, as a member of the State Bar of California is accepted without prejudice to further proceedings in any disciplinary proceeding pending against respondent should he hereafter seek reinstatement. It is ordered that he comply with rule 9.20 of the California Rules of Court and that he perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the date this order is filed.\* It is recommended that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

\*(See Bus. & Prof. Code, § 6126, subd. (c).)

**S163231****FARRER ON RESIGNATION**

Resignation accepted with disciplinary proceeding pending

The voluntary resignation of MATTHEW JAMES FARRER, State Bar No. 203544, as a member of the State Bar of California is accepted without prejudice to further proceedings in any disciplinary proceeding pending against respondent should he hereafter seek reinstatement. It is ordered that he comply with rule 9.20 of the California Rules of Court and that he perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the date this order is filed.\* It is recommended that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

\*(See Bus. & Prof. Code, § 6126, subd. (c).)

**S163233****DESMET ON RESIGNATION**

Resignation accepted with disciplinary proceeding pending

The voluntary resignation of ROBERT FLORIAN DESMET, State Bar No. 53402, as a member of the State Bar of California is accepted without prejudice to further proceedings in any disciplinary proceeding pending against respondent should he hereafter seek reinstatement. It is ordered that he comply with rule 9.20 of the California Rules of Court and that he perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the date this order is filed.\* It is recommended that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

\*(See Bus. & Prof. Code, § 6126, subd. (c).)

**S163234****LESLIE ON RESIGNATION**

Resignation accepted with disciplinary proceeding pending

The voluntary resignation of CLARK GAYLORD LESLIE, State Bar No. 66570, as a member of the State Bar of California is accepted without prejudice to further proceedings in any disciplinary proceeding pending against respondent should he hereafter seek reinstatement. It is ordered that he comply with rule 9.20 of the California Rules of Court and that he perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the date this order is filed.\* It is recommended that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

\*(See Bus. & Prof. Code, § 6126, subd. (c).)

**S163236****TAUS II ON RESIGNATION**

Resignation accepted with disciplinary proceeding pending

The voluntary resignation of IRACHMIL BENJAMIN TAUS II, State Bar No. 43739, as a member of the State Bar of California is accepted without prejudice to further proceedings in any disciplinary proceeding pending against respondent should he hereafter seek reinstatement. It is ordered that he comply with rule 9.20 of the California Rules of Court and that he perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the date this order is filed.\* It is recommended that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

\*(See Bus. & Prof. Code, § 6126, subd. (c).)

**S163237****STEVENS ON RESIGNATION**

Resignation accepted with disciplinary proceeding pending

The voluntary resignation of JAMES AMBROSE STEVENS, State Bar No. 128658, as a member of the State Bar of California is accepted without prejudice to further proceedings in any disciplinary proceeding pending against respondent should he hereafter seek reinstatement. It is ordered that he comply with rule 9.20 of the California Rules of Court and that he perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the date this order is filed.\* It is recommended that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

\*(See Bus. & Prof. Code, § 6126, subd. (c).)



**S163239****VARGAS ON RESIGNATION**

Resignation accepted with disciplinary proceeding pending

The voluntary resignation of EDWARD ELIGIO VARGAS, State Bar No. 135697, as a member of the State Bar of California is accepted without prejudice to further proceedings in any disciplinary proceeding pending against respondent should he hereafter seek reinstatement. It is ordered that he comply with rule 9.20 of the California Rules of Court and that he perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the date this order is filed.\* It is recommended that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

\*(See Bus. & Prof. Code, § 6126, subd. (c).)

**SUPREME COURT MINUTES  
WEDNESDAY, MAY 7, 2008  
SAN FRANCISCO, CALIFORNIA**

The Supreme Court of California convened in the courtroom of the Earl Warren Building, 350 McAllister Street, Fourth Floor, San Francisco, California, on Wednesday, May 7, 2008, at 9:00 a.m.

Present: Chief Justice Ronald M. George, presiding, and Associate Justices Kennard, Baxter, Werdegarr, Chin, Moreno, and Corrigan.

Officers present: Frederick K. Ohlrich, Clerk, and Gail Gray, Calendar Coordinator.

S149851 Consolidated with S149847	Lloyd Bouton, Plaintiff and Appellant, v. USAA Casualty Insurance Company, Defendant and Respondent.
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Cause called. Erin O. Hallissy argued for S149851 Respondent USAA Casualty Ins. Co.

David M. Kindopp argued for S149847 Appellant O'Hanesian.

Jacques J. Kirch argued for S149851 Appellant Bouton.

Mitchell C. Tilner argued for S149847 Respondents State Farm Mutual Automobile Ins. Co. et al.

Ms. Hallissy replied.

Cause submitted.

S149847 Consolidated with S149851	Charles Michael O'Hanesian, Plaintiff and Appellant, v. State Farm Mutual Automobile Insurance Co., et al., Defendants and Respondents.
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S141541 Kirk Crawford et al., Plaintiffs and Appellants,  
v.  
Weather Shield Mfg., Inc., Defendant and Appellant.

Cause called. Christian J. Imre argued for Appellant Weather Shield Manufacturing, Inc.

Richard Kellner argued for Appellant Crawford et al.

Ms. Imre replied.

Cause submitted.

S148949 The People, Plaintiff and Respondent,  
v.  
Tony Lee Allen, Defendant and Appellant.

Cause called. Christopher Blake, Court-appointed Counsel, argued for Appellant.

Steve Oetting, Office of the Attorney General, argued for Respondent.

Mr. Blake replied.

Cause submitted.

Court recessed until 1:30 p.m. on this date.

Court reconvened pursuant to recess.

Members of the court and officers present as first shown.

S147510 The People, Plaintiff and Respondent,  
v.  
Saul Garcia Cuevas, Defendant and Appellant.

Cause called. Susan S. Kim, Office of the Attorney General, argued for Respondent.

Roberta Simon, Court-appointed Counsel, argued for Appellant.

Ms. Kim replied.

Cause submitted.

S089623    The People, Respondent,  
              v.  
              Lester Harland Wilson, Appellant.

Cause called. Patrick M. Ford, Court-appointed Counsel, argued for Appellant.

Alana Cohen Butler, Office of the Attorney General, argued for Respondent.

Mr. Ford replied.  
Cause submitted.

S043187    The People, Respondent,  
              v.  
              Billy Ray Riggs, Appellant.

Cause called. David S. Adams, Court-appointed Counsel, argued for Appellant.

Kevin Vienna, Office of the Attorney General, argued for Respondent.

Mr. Adams replied.  
Cause submitted.

Court recessed until Thursday, May 8, 2008, at 9:00 a.m.